

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO**

**DELTA-MONTROSE ELECTRIC  
ASSOCIATION**

Complainant,

v.

**TRI-STATE GENERATION AND  
TRANSMISSION ASSOCIATION,  
INC.**

Respondent.

**PROCEEDING NO. 18F-0866E**

**UNITED POWER, INC.'S NOTICE OF INTERVENTION AS OF RIGHT OR, IN THE  
ALTERNATIVE, MOTION FOR PERMISSION TO INTERVENE OR TO  
PARTICIPATE AS *AMICUS CURIAE***

United Power, Inc. ("United Power"), by and through its undersigned legal counsel, pursuant to Section 40-6-109(1), Colorado Revised Statutes, and Rule 1401 of the Rules of Practice and Procedure (4 CCR 723-1) of the Colorado Public Utilities Commission (the "Commission"), submits this Notice of Intervention as of Right. In the alternative, United Power moves to intervene permissively as a party to this proceeding or to participate as *amicus curiae* pursuant to Commission Rule of Practice and Procedure 1200(c). In support of these requests, United Power states as follows:

1. United Power is a rural electrical distribution cooperative and public utility that has been deregulated from Commission rate jurisdiction pursuant to Title 40, Article 9.5, Part 1, of the Colorado Revised Statutes.

2. Tri-State Generation and Transmission Association, Inc. ("Tri-State") is a Colorado cooperative association.

3. United Power is a founding member of Tri-State.

4. On December 6, 2018, Delta-Montrose Electric Association (“DMEA”) filed a Formal Complaint against Tri-State.

5. United Power also purchases a substantial portion of its wholesale electric power and energy from Tri-State under the term of a contract that was renewed in 2007 and expires at the end of 2050. United Power is the largest member of Tri-State in terms of total purchases and assigned patronage capital.

6. United Power is entitled to intervene as of right because the outcome of this proceeding may affect United Power’s legally protected rights. Specifically, the outcome may affect United Power’s membership interest in Tri-State and/or its contract with Tri-State because United Power may sustain a rate impact as a result of the implementation of any relief requested by DMEA. As the largest Tri-State member cooperative, furthermore, United Power is the Tri-State member that will be most affected by the outcome of this process.

7. If the Commission disagrees that United Power is entitled to intervene as of right, United Power requests in the alternative that the Commission grant it leave to permissively intervene. United Power contends that the Commission has jurisdiction to set a just and reasonable exit charge from Tri-State. United Power has pecuniary and tangible interests that may be substantially affected by this proceeding for the reasons explained in paragraph six, above. Only United Power can adequately represent its interests because they are different from the interests of DMEA, Tri-State, and any other entity that may intervene in this proceeding.

8. For the reasons explained in paragraphs six and seven, above, should the Commission deny intervention as of right or by permission, United Power should be granted leave to participate as *amicus curiae*.

9. Intervention by United Power will not unduly broaden the issues in this proceeding.

10. The nature and quantity of any evidence to be presented by United Power is not yet known. However, United Power will abide by the time limits for discovery and submission of testimony, exhibits, and statements of position. Pursuant to Decision No. C18-1177-I, DMEA and Tri-State will file a joint proposed procedural schedule no later than January 28, 2019. United Power will abide by the procedural schedule adopted by the Commission.

11. Intervention is timely. The deadline for intervention is January 9, 2019, based on the December 20, 2018 Order to Satisfy or Answer the Complaint. Pursuant to Decision No. C18-1177-I, Tri-State's Response to the Complaint is not due until January 15, 2019.

12. United Power may file a Nondisclosure Agreement regarding confidential information and highly confidential information. United Power does not now intend to propound discovery requests to DMEA or Tri-State. However, based on information provided by DMEA or Tri-State to the Commission and to other parties, United Power may decide to propound discovery to DMEA or Tri-State related to such responses of either of them to discovery propounded by parties to the proceeding. United Power requests that DMEA and Tri-State provide United Power with a copy of any response to discovery made by any party.

13. DMEA and Tri-State take no position on the relief requested at this time but reserve the right to respond.

14. United Power has accepted electronic filing of documents through the Commission's E-filing system.

15. United Power requests that notice of matters relating to this proceeding and copies of orders, testimony, exhibits, and all pleadings, discovery, and other communications be served upon the following:

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Respectfully submitted this 9<sup>th</sup> day of January, 2019.

By: s/ Michael L. O'Donnell

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**CERTIFICATE OF SERVICE**

I hereby certify that on January 9, 2019, the foregoing document was served via electronic filing with the Commission and served on those parties shown on the Commission's Certificate of Service accompanying such filing:

*s/ Michael L. O'Donnell*

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Michael L. O'Donnell